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REMARKS

In the latest Office Action, claims 15, 18-19, 21, 23-24, 26, and 32 were rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. '701 or Johnson et al. '589. Applicants previously pointed out that in the embodiment of the Johnson et al. references where two or more melt-flowable layers are used, the layer with the higher melt flow rate is on top of the layer with the lower melt flow rate. This is in contrast to the sealant and flow control agent combination of the present invention, in which the layer with the lower melt flow rate (flow control agent) is on top of the layer with the higher melt flow rate (the sealant). In order to clarify this relationship between the layers and the substrate, applicants previously amended independent claims 15, 26, 30 and 31 to clarify that the combination sealant and flow control agent overlies and seals a gap in a substrate. However, in the latest office action, the Examiner still maintains that the Johnson references inherently meet applicants' intended use of flowing into a gap or cavity, asserting that the claims do not specify which layer of the combination is in direct contact with the substrate.

Accordingly, with this amendment, applicants have further amended independent claims 15, 26, 30, 31, and 32 to recite that it is the sealant which is in direct contact with the substrate. Basis for this amendment may be found in the specification at page 5, first and second full paragraphs. The amended claims clearly convey that the sealant (having a higher melt flow rate) is positioned directly on the surface of the substrate and flows into the gap or cavity of the substrate, while the flow control agent (having a lower melt flow rate) is on the surface of the sealant. As applicants have previously pointed out, this teaching differs from the Johnson et al. references, which teach that their top layer is formulated to have greater melt flow rate than the bottom layer so that upon heating, the top layer will flow and encapsulate the bottom layer. See Johnson et al. '701, col. 17, lines 50-57; and Johnson et al. '589, col. 16, lines 1-7. There is no teaching or suggestion in either of the Johnson et al. references of applying a sealant and flow control agent in the claimed configuration for the purpose of sealing a gap in a

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substrate.

In response to applicants' arguments that the Johnson et al. references do not teach a heat expandable sealant as claimed, the Examiner maintains that "it would be [sic, have been] obvious to include blowing agents in the *first melt flowable layer*" of the Johnson et al. structures. With that statement, the Examiner has confused the issue of anticipation (§102) with obviousness (§103). Any required modification of the Johnson et al. references to arrive at the claimed invention negates anticipation. And, the Examiner further confuses matters by mis-stating the statutory standard for obviousness. The issue is not whether today, with benefit of hindsight whether it would "be" obvious to modify Johnson et al., but whether at the time of the invention with no knowledge of applicants' invention whether it would have been obvious to modify Johnson et al. Applicants submit that the record is clear that it would not. There is no teaching or suggestion in the Johnson et al. references of including blowing agents in their first melt flowable layer. And, as applicants' amended claims specifically recite the relationship between the sealant/flow control agent layers and the substrate, the Examiner cannot ignore those features of the claims which patentably distinguish over the cited references.

With regard to previously added claim 32, which excludes the additional web, scrim, thermoplastic film, and PSA layers taught in the Johnson references, the Examiner has taken the position that "applicant does not teach that the use of such layers would prevent the combinations from their inventive function" and that such layers are therefore not excluded by "consisting essentially of" language. With this amendment, applicants have further amended claim 32 to recite "consisting of" language. The Examiner cannot ignore the limitations of the claim, which clearly exclude the use of a three-layer structure as taught in the Johnson references, i.e., two melt-flowable layers with a scrim layer and/or an additional film/PSA layer.

With regard to claim 19, in response to applicants' previous arguments that there is no teaching or suggestion in Johnson et al. that their melt flowable layers would

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exhibit less sagging, the Examiner maintains that the Johnson references "teach embodiments which would inherently possess the claimed property." In drawing such a conclusion, the Examiner must take into account the claimed configuration of the melt flowable layers of the Johnson references, which differs from that of the sealant/flow control agent combination of the present invention. There is no teaching or suggestion in the Johnson et al. references that less sagging would occur if a melt flowable layer having a lower melt flow rate were placed on the surface of a melt flowable layer having a higher melt flow rate as in the present invention. To the contrary, Johnson et al. explicitly teach exactly the opposite—that the top layer will flow and encapsulate the bottom layer. The claimed result is not inherent from the Johnson reference teachings.

Nor do the Johnson et al. references teach or suggest the use of a flow control agent in the form of a dry coating which has been applied to the sealant as a liquid coating as recited in amended claim 24. Rather, the Johnson references teach the use of melt flowable layers which are separately prepared as melt flowable sheets and then laminated together. See Johnson et al. '589, col. 16, lines 1-7 and Johnson et al. '701, col. 17, lines 50-57. There is no teaching or suggestion in the Johnson et al. references of applying a liquid flow control agent to the surface of a sealant, where the sealant has a greater melt flow rate than the flow control agent.

Claims 15, 17-19, 21, 23-24, 26, 30 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over either Johnson et al. '589 or Johnson et al. '701, each in view of Greenwood. The Examiner maintains that Greenwood teaches filling gaps in the automotive industry, and that it would have been obvious to use the blowing agents of Greenwood in the melt-flowable layers of the Johnson inventions. As previously pointed out, there is no motivation for one skilled in the art to do so as Johnson et al. are not concerned with sealing large gaps encountered in automotive body components as in the present invention, but rather are concerned with providing a smooth surface to a substrate to conceal defects and surface imperfections and seal small gaps between joints. Nor do Greenwood teach filling large gaps in automotive

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body components, but rather teach a sealant for providing a waterproof seal between a window and window frame in automotive applications (see col. 1, lines 23-40). One skilled in the art would not look to the teachings of Greenwood to modify Johnson et al.

Even if one were to make the proposed substitution, the claims would still not be met as Johnson et al. do not teach or suggest the claimed configuration of a flow control agent on the surface of an expandable sealant, where the sealant is in direct contact with the substrate as claimed.

With regard to claim 30 which recites the use of a polyvinyl acetate flow control agent, applicants wish to reiterate that the configuration of Johnson's melt-flowable layer/PSA is such that the PSA would be on the bottom of the melt-flowable layer, not on top of the sealant as taught and claimed by applicants.

Claims 28-29 and 31 have been rejected under 35 U.S.C. 103(a) as being unpatentable over either Johnson et al. '589 or Johnson et al. '701, each in view of Delle Donne et al. While applicants previously pointed out that none of the cited references teaches or suggest thermoforming a sealant into a pocket sealer as claimed, the Examiner asserts that the term "pocket sealers" does not differentiate from the claimed materials of the prior art. However, as previously pointed out, while Delle Donne's patch may be thermoformed to cover holes, there is no teaching or suggestion in Delle Donne of the use of a combination of layers having different melt flow rates for the purpose of avoiding sagging as taught in the present Invention. Nor do Delle Donne teach or suggest thermoforming the patch into a pocket sealer as claimed.

Nor is there any motivation to modify the Johnson et al. references to thermoform their melt-flowable layers as the Examiner has proposed. Johnson et al. is not concerned with filling large gaps in automotive components, but rather is concerned with providing an aesthetic appearance to a substrate surface which includes covering a seam or joint as demonstrated in their drawing figures. As applicants previously pointed out, thermoforming the layers of Johnson et al. into a particular shape would defeat the purpose of having a melt-flowable sheet which, when heated, "conforms to

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the surface of the substrate." See '701, col. 4, lines 7-8. While the Examiner asserts that thermoforming the sheets would further improve this conformity, applicants disagree. As shown in the drawing figures of the Johnson references, they clearly desire a smooth, protected surface. The Examiner has provided no motivation or reasoning as to how or why one would be motivated to thermoform the sheets of the Johnson references into a particular shape as a means of improving the desired conformity. Claims 28-29 and 31 are clearly patentable over the cited references.

Claims 28-29 and 31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over either Johnson et al. '589 or Johnson et al. '701, each in view of Greenwood, and further in view of Delle Donne et al. Applicants submit that claims 28-29 and 31 are clearly patentable over the cited references for the same reasons discussed above. The teachings of Greenwood and Delle Donne et al. provide no motivation to modify the Johnson references.

For all of the above reasons, applicants submit that claims 15, 17-19, 21, 23-24, 26, and 28-32, as amended, are patentable over the cited references. Entry of this amendment and early notification of allowance is respectfully requested.

Respectfully submitted,

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